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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/370,736 08/09/99 ROSENBERG

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EXAMINER

PM82/0627

HELFGOTT & KARAS PC
EMPIRE STATE BUILDING 60TH FLOOR
NEW YORK NY 10118-0110

WILKENS, J

ART UNIT

PAPER NUMBER

3636

DATE MAILED:

06/27/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/370,736

Applicant(s)
Rosenberg

Examiner
Janet Wilkens

Group Art Unit
3636



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-20 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-9, 11-15, and 18 is/are rejected.

☒ Claim(s) 10, 16, 17, 19, and 20 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Aug 9, 1999 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 3

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 3636

Drawings

The drawings are objected to because in Fig. 1, there is a question mark pointing to one of the features. Correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claim 13, "said retainer member" lacks antecedent basis. Furthermore for claim 13, it is unclear whether or not the retainer (member) is to be claimed in combination with the stud. In claim 8, the channel with the retainer is not being positively claimed in combination with the stud; however, in claim 13, the retainer feature is being positively claimed. (For examination purposes, the combination will be considered the claimed subject matter.) For claim 20, it is unclear which stud is being referred to, since plural studs have been claimed previously.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 3636

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6, 8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Goldsmith. Goldsmith teaches a metal channel member (Fig. 1) comprising: a central longitudinally extending floor portion (26), a pair of side members (28,29) formed on opposite sides of the floor portion, retainer members with leg and base portions (25; plural retainer members longitudinally spaced along channel member) struck from the floor portion and stops/tabs (52; plural stops longitudinally spaced along channel member) struck from the floor portion. Goldsmith also teaches a metal stud (Fig. 1) comprising: a central column portion (21) having a pair of opposite end portions, side walls (37,38) formed on opposite sides of the column portion, and alignment slots (31) formed in the central portion. Note: the limitations in the intended use/ "for" statements have not been given any weight in the claims.

Claims 1-4 and 7-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Kostecky. Kostecky teaches a metal channel member (1) comprising: a central longitudinally extending floor portion (3), a pair of side members (4) formed on opposite sides of the floor portion, retainer members with leg and base portions (14; plural retainer members longitudinally spaced along channel member) struck from the side members and stops/tabs (13; plural stops longitudinally spaced along channel member) struck from the side members. Kostecky also teaches a metal stud (2) comprising: a central column portion (15) having a pair of opposite end portions, side walls (16) formed on opposite sides of the column portion, and alignment slots (19,20) formed in the

Art Unit: 3636

central portion. Note: the limitations in the intended use/ "for" statements have not been given any weight in the claims.

Claims 8, 9 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Satchell. Satchell teaches a metal stud (11) comprising: a central column portion having a pair of opposite end portions, indented side walls (15) formed on opposite sides of the column portion, and alignment slots (14) formed in the side walls. Note: the limitations in the intended use/ "for" statements have not been given any weight in the claims.

Claims 8, 11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Miles. Miles teaches a metal stud (10) comprising: a central column portion having a pair of opposite end portions, side walls (12) formed on opposite sides of the column portion, and an alignment slot (28) formed in one of the side walls. An extender (22) is slidably mounted within the stud; the extender including a "push" hole (28). Note: the limitations in the intended use/ "for" statements have not been given any weight in the claims.

Claim 15 is rejected under 35 U.S.C. 102(b) as being anticipated by Desy. Desy teaches a metal channel member (10; Fig. 1) comprising: a central longitudinally extending floor portion (20), a pair of side members (16,18) formed on opposite sides of the floor portion, retainer members (52; longitudinally spaced along channel member) in the channel and stops (56,58; plural stops longitudinally spaced along channel member) in the channel. Desy also teaches a metal stud (14; Fig. 1) comprising: a central column portion (26) having a pair of opposite end portions, side

Art Unit: 3636

walls (22,24) formed on opposite sides of the column portion, and an alignment slot (32) formed in the central portion for receiving one of the retainer members.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goldsmith in view of Smolik. As stated above, Goldsmith teaches the specifications of claim 1, including a channel member with a floor portion and side walls. For claim 5, Goldsmith fails to teach a crimp in one of the side walls. Smolik teaches the use of crimps (34A,B;35A,B) in side walls of a channel member (36) for maintaining a stud (16) in a position perpendicular to the channel member. It would have been an obvious consideration to one of ordinary skill in the art at the time of the invention to modify the channel member of Goldsmith by adding crimps to its side walls (such as the crimps taught by Smolik), to provide additional supporting means for the stud(s), making the stud(s) more securely positioned with respect to the support member.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Desy in view of Brunemann. As stated above, Desy teaches the specifications of claim 15, including a channel member and studs. For claim 18, Desy fails to teach a spacer bar for interconnecting the studs.

Art Unit: 3636

Brunemann teaches the use of spacer bars (13) for interconnecting studs (3). It would have been an obvious consideration to one of ordinary skill in the art at the time of the invention to modify the frame system of Desy by adding a spacer bar between the studs (such as the bar taught by Brunemann), to provide a more study frame system.

Allowable Subject Matter

Claims 10, 16, 17, 19 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Prior Art

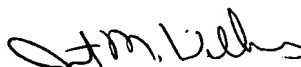
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Agar et al, Manske et al, Roberts et al, Allison and Beasley teach various frame members.

Art Unit: 3636

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet Wilkens whose telephone number is (703) 308-2204.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

Wilkens
June 26, 2000


JANET M. WILKENS
PRIMARY EXAMINER
Art Unit 3636